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No. 86-1719/86-1860

Supreme Court, U.S.
FILED
JUN 25 1987
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1986

IN RE: UNION CARBIDE CORPORATION GAS PLANT DISASTER AT BHOPAL, INDIA IN DECEMBER, 1984

The PLAINTIFFS in all cases which have been consolidated into this proceeding by order of the Judicial Panel on Multidistrict Litigation dated February 6, 1985, and Order of this Court dated April 25, 1985, together with those Plaintiffs in all other related actions which may be consolidated subsequent to the filing of this notice of appeal, including but not limited to all those cases which the undersigned are aware of, except *The Union of India v. Union Carbide Corporation*, No. 85 Civ. 2696 and except those cases consolidated as shareholders or derivative cases by EXECUTIVE COMMITTEE MEMBERS, STANLEY M. CHESLEY and F. LEE BAILEY,

Petitioners,

— VS. —

THE UNION OF INDIA AND UNION CARBIDE CORPORATION,

Respondents,

— and —

THE UNION OF INDIA,

Respondent and Gross-Petitioner,

— VS. —

UNION CARBIDE CORPORATION,

Respondent.

ON PETITION AND CROSS-PETITION FOR WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR UNION CARBIDE CORPORATION IN OPPOSITION

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QUESTIONS PRESENTED

Should this Court in the exercise of its discretion grant review on writs of certiorari where: (i) there are no special or important reasons therefor as required by Rule 17; (ii) the decisions of the courts below dismissing these actions on grounds of *forum non conveniens* followed well-established case law recently affirmed by this Court in *Piper Aircraft Co. v. Reyno*, 454 U.S. 235 (1981), in circumstances where, in the words of the court of appeals, "it might reasonably be concluded that it would have been an abuse of discretion to deny" the motion; (iii) the district court's one-sided condition of dismissal regarding discovery was deleted by the court of appeals because "[b]asic justice dictates that both sides be treated equally, with each having equal access to the evidence in the possession or under the control of the other"; and (iv) the district court's condition regarding enforcement of a foreign judgment was deleted by the court of appeals to comport with well-established law and to avoid any unnecessary ambiguity?

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	i
TABLE OF AUTHORITIES	iii
OPINIONS BELOW	2
JURISDICTION	2
STATEMENT OF THE CASE	2
ARGUMENT	5
CONCLUSION	16
APPENDIX	A-1
Rule 28.1 Listing	A-1

TABLE OF AUTHORITIES

Cases:	Page
Abiaad v. General Motors Corp., 538 F. Supp. 537 (E.D. Pa.), *aff'd per curiam*, 696 F.2d 980 (3d Cir. 1982)	11
Dahl v. United Technologies Corp., 472 F. Supp. 696 (D. Del. 1979), *aff'd*, 632 F.2d 1027 (3d Cir. 1980)	12
De Melo v. Lederle Laboratories, 801 F.2d 1058 (8th Cir. 1986)	11
In re Disaster at Riyadh Airport, Saudi Arabia,on August 19, 1980, 540 F. Supp. 1141 (D.D.C. 1982)	11
Fraizer v. St. Jude Medical, Inc., 609 F. Supp. 1129 (D. Minn. 1985)	11
Gulf Oil Corp. v. Gilbert, 330 U.S. 501 (1947)	6, 9
Harrison v. Wyeth Laboratories, Etc., 510 F. Supp. 1 (E.D. Pa. 1980), *aff'd per curiam*, 676 F.2d 685 (3d Cir. 1982)	11-12
Koster v. (American) Lumbermens Mut. Casualty Co., 330 U.S. 518 (1947)	15
Manu Int'l, S.A. v. Avon Products, Inc., 641 F.2d 62 (2d Cir. 1981)	10-11
Nai-Chao v. Boeing Co., 555 F. Supp. 9 (N.D. Cal. 1982), *aff'd sub. nom., Cheng v. Boeing Co.*, 708 F.2d 1406 (9th Cir.), *cert. denied*, 464 U.S. 1017 (1983)	11
Pain v. United Technologies Corp., 637 F.2d 775 (D.C. Cir. 1980), *cert. denied*, 454 U.S. 1128 (1981)	11

Page

Piper Aircraft Co. v. Reyno, 454 U.S. 235 (1981) . . . i, 5, 6, 9, 11, 12

In re Richardson-Merrell, Inc., 545 F. Supp. 1130 (S.D. Ohio 1982), *modified sub nom.*, *Dowling v. Richardson-Merrell, Inc.*, 727 F.2d 608 (6th Cir. 1984) 11

Rubenstein v. Piper Aircraft Corp., 587 F. Supp. 460 (S.D. Fla. 1984) 11

Sibaja v. Dow Chemical Co., 757 F.2d 1215 (11th Cir.), *cert. denied*, — U.S. —, 106 S. Ct. 347, 54 U.S.L.W. 3309 (1985) 11

United States v. Johnston, 268 U.S. 220 (1925) . . . 5

Watson v. Merrell Dow Pharmaceuticals, 769 F.2d 354 (6th Cir. 1985) 11

STATUTES AND RULES CITED:

Indian

Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 3

American

Federal Rules of Civil Procedure 4, 13

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Petitioners,

— VS. —

THE UNION OF INDIA AND UNION CARBIDE CORPORATION,

Respondents,

— and —

THE UNION OF INDIA,

Respondent and Cross-Petitioner,

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ON PETITION AND CROSS-PETITION FOR WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR UNION CARBIDE CORPORATION IN OPPOSITION

Respondent Union Carbide Corporation respectfully requests this Court to deny the petition and cross-petition for writs of certiorari seeking review of the Second Circuit Court of Appeals' decision in this case.

OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a) is reported at 809 F.2d 195 (2d Cir. 1987). The opinion of the district court (Pet. App. 25a) is reported at 634 F. Supp. 842 (S.D.N.Y. 1986).

JURISDICTION

The judgment of the court of appeals was entered on January 14, 1987. A petition for rehearing was denied on February 26, 1987. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1) and § 2101(c).

STATEMENT OF THE CASE

The petition and cross-petition arise out of the Bhopal gas tragedy caused by the release of methyl isocyanate from a pesticide plant owned and operated by Union Carbide India Limited ("UCIL") in Bhopal, India on December 3, 1984. UCIL was incorporated under the laws of India 50 years ago, and its stock is publicly traded on the Bombay Stock Exchange. Respondent Union Carbide Corporation ("Union Carbide") owns 50.9% of UCIL's stock. Approximately 22% is owned or controlled by the Government of India, and the remainder is widely held by some 23,500 Indian citizens. UCIL employs over 9,000 Indian citizens. It is managed and operated entirely by Indians in India as required by the Indian government.

On December 7, 1984, a class action, the first of some 145 actions in United States courts, was commenced in the Southern District of New York on behalf of thousands of Indian claimants. On January 2, 1985, the Judicial Panel on Multidistrict Litigation transferred the federal cases to the Southern District of New York before the Hon. John F. Keenan. The individual federal court complaints were superseded by a consolidated complaint filed on behalf of the individual plaintiffs on June 28, 1985. Concurrently, over 6,500 suits were brought in India by Indian claimants residing in India and represented by Indian counsel. Many of the suits in India name the Government of India, the State of Madhya Pradesh, the Municipality of Bhopal and UCIL as defendants. They have been consolidated in the Bhopal district court.

On March 29, 1985, the Indian Parliament enacted the Bhopal Gas Leak Disaster (Processing of Claims) Act, which purports to give the Government of India the exclusive right to represent its citizens in connection with all claims arising out of the tragedy. On April 8, 1985, the Union of India filed suit in the Southern District of New York on behalf of itself and its citizens against Union Carbide as the sole defendant. The consolidated complaint and the Union of India's complaint set forth similar claims for relief.

By order dated April 25, 1985, Judge Keenan appointed a three-member Executive Committee to represent all plaintiffs in the pre-trial proceedings. The Committee consisted of two lawyers representing the individual plaintiffs and one representing the Union of India. On July 31, 1985, Union Carbide moved to dismiss the complaints on the grounds, *inter alia*, of *forum non conveniens*. After discovery on that issue, the Union of India and the individual plaintiffs opposed Union Carbide's motion. On May 12, 1986, the district court issued a comprehensive 63-page opinion granting Union Carbide's motion subject to certain conditions. On June 12, 1984, Union Carbide accepted the conditions subject to its right to appeal.

On June 26, 1986, the individual plaintiffs filed their notice of appeal in the Second Circuit Court of Appeals. On July 10, 1986, Union Carbide filed its notice of appeal and cross-appeal, and on July 28, 1986, the Union of India filed its notice of cross-appeal. On appeal, the Union of India changed its position and acknowledged that the dismissal by the district court was correct and that the litigation belonged in India.

On September 5, 1986, the Union of India, acting pursuant to the authority granted to it under the Bhopal Act, instituted suit on behalf of all claimants in the Bhopal district court against Union Carbide alone. The suit is being actively litigated in India.

On January 14, 1987, the Second Circuit issued its opinion affirming Judge Keenan's order of dismissal but deleting two of

the conditions imposed by the district court. The court of appeals held that the district court erred in requiring Union Carbide to consent to one-sided discovery against it under the Federal Rules of Civil Procedure while limiting Union Carbide to discovery under Indian rules of procedure. The district court had determined that it would be fair to have the same discovery rules apply to both sides, but doubted its power to make the Union of India subject to U.S. discovery rules. Basic justice, the Second Circuit said, dictated that both sides be treated equally. Each side should have equal access to the evidence in the possession or under the control of the other. This fundamental principle was deemed to be especially appropriate in this case since the Union of India, a party on both sides of the litigation in India, was so heavily involved in the regulation of virtually every aspect of the design, construction, operation and maintenance of UCIL's Bhopal plant.

The court of appeals also held that the condition of dismissal imposed by the district court relating to the enforceability of any final Indian judgment against Union Carbide in United States courts was unnecessary and needlessly ambiguous in granting Union Carbide the "minimal requirements of due process". In view of well-settled statutory and case law providing for recognition of foreign-country money judgments, the court of appeals concluded it was error to impose this condition upon Union Carbide, especially where there was a risk that it might be misinterpreted as providing for a different or lesser standard than a United States court would otherwise require.

REASONS FOR DENYING THE WRITS

ARGUMENT

I

The only issues Petitioners seek to raise turn on the particular facts of this case. A grant of certiorari is not meant to serve such a fact-finding function. As this Court noted in *United States v. Johnston*, 268 U.S. 220, 227 (1925): "We do not grant a certiorari to review evidence and discuss specific facts."

The factual questions raised by Petitioners have already been thoroughly considered and resolved in favor of Union Carbide. As this Court held in *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 257 (1981), where the district court has considered the adequacy of the alternative forum and all relevant public and private interest factors, and where its balancing of these factors is reasonable, its rulings, here affirmed by the court of appeals, are entitled to substantial deference.

Moreover, since the questions raised by Petitioners do not present an undecided question of federal law, nor one in conflict with any applicable decision of this or any other court, nor one calling for any exercise of this Court's supervisory powers, certiorari should be denied. Certiorari should not be granted simply because Petitioners claim that the district court "woodenly" applied the law and then seek to reargue the same issues of fact they unsuccessfully argued below.

After reviewing Judge Keenan's "detailed decision, in which he thoroughly considered the comparative adequacy of the forums and the public and private interests involved," the court of appeals concluded that there was no abuse of discretion by the district court. (Pet. App. at 15a). A brief statement of the district court's findings confirms the soundness of the court of appeals' conclusion.

The district court made the following findings of fact in deciding that India is an "adequate" alternative forum as required by *Piper*:

— Union Carbide is "amenable to process in India";

— "[t]he examples cited by defendant's experts suggest a developed and independent judiciary" in India;

— "[t]he Bhopal Act permits the cases to be treated 'speedily, effectively, equitably and to the best advantage of the claimants' ";

— "[t]he Indian bar appears more than capable of shouldering the litigation if it should be transferred to India"; and

— "the Indian legal system provides an adequate alternative forum for the Bhopal litigation".

The district court made the following findings of fact with respect to the private interest factors enunciated in *Gulf Oil* and *Piper*:

— "most of the documentary evidence concerning design, training, safety and start-up, in other words, matters bearing on liability, is to be found in India";

— "most witnesses whose testimony would relate to questions of causation and liability are in India";

— "many of these potential witnesses do not speak English, and would require translators";

— "[w]hile Union Carbide might be deprived of testimony of witnesses or even potential third-parties if this action were to proceed in this forum, no such problem would exist if litigation went forward in India";

— "[t]he unavailability of compulsory process for Indian non-party witnesses, of whom there are many ... the high cost of transporting the large number of Indian nationals to the United States, as well as the

need to translate their testimony should they appear, all support ... dismissal of this action";

– "[t]ransportation costs for the relative few [U.S. witnesses] would not compare to the alternate costs of transporting hundreds of Indian witnesses";

– "[s]ince English is widely spoken in India, less translation would be required for foreign witnesses in India than in the converse situation";

– "fewer obstacles to calling state and local officials as witnesses or parties would face the defendant [in India]";

– "almost 'all the relevant events' leading to and following from the accident occurred in India. Indian citizens are primarily involved in the case, both as witnesses and claimants"; and

– "the administrative costs of this litigation are astounding and significant" and "weigh against retention of this case".

Finally, the district court concluded that the "public interest of India in this litigation far outweighs the public interest of the United States":

– the interest of the Indian Government in the "creation, operation, licensing and regulation, and investigation of the plant" is "immense";

– "the [Bhopal plant] facility was within the sphere of regulation of Indian laws and agencies, at all levels";

– "[t]he Indian Government, which regulated the Bhopal facility, has an extensive and deep interest in ensuring that its standards for safety are complied

> with. As regulators, the Indian government and individual citizens even have an interest in knowing whether extant regulations are adequate"; and
>
> — "[n]o American interest in the outcome of this litigation outweighs the interest of India in applying Indian law and Indian values to the task of resolving this case".

In light of the district court's findings, the court of appeals was plainly correct in stating that "it might reasonably be concluded that it would have been an abuse of discretion to deny" Union Carbide's motion since practically "all relevant factors demonstrate that transfer of the cases to India for trial and adjudication is both fair and just to all parties." (Pet. App. at 15a-16a). The decisions of the lower courts are hardly the "narrow and literalistic interpretation of the *forum non conveniens* law" that Petitioners suggest. (Pet. Brief at 14).

Petitioners assert that only a few "key and undisputed facts need to be discussed" to make their point. They state, for example, that "[i]t is undisputed that almost all of the key management personnel regarding these contentions [on causation and liability] are in the United States." (Pet. Brief at 4). However, the record below and the findings of both lower courts completely refute Petitioners' assertions. As the court of appeals stated: "The vast majority of material witnesses and documentary proof bearing on causation of and liability for the accident is located in India, not the United States, and would be more accessible to an Indian court than to a United States court." (Pet. App. at 12a).

Petitioners also assert that "Union Carbide exercised control over its subsidiary Union Carbide of India, Ltd. [*sic*]". However, the Second Circuit found that "UCC's participation was limited and its involvement in plant operations terminated long before the accident." (Pet. App. at 10a-11a). Moreover, "the Union of India controlled the terms of the agreements and precluded UCC from exercising any authority to 'detail design, erect and

commission the plant,' which was done independently over the period from 1972 to 1980 by UCIL process design engineers." (Pet. App. at 11a). "In short," the court of appeals stated, "the plant has been constructed and managed by Indians in India. No Americans were employed at the plant at the time of the accident . . . .[D]uring the 5-year period before the accident the communications between the plant and the United States were almost nonexistent." (Pet. App. at 11a-12a).

Petitioners argue that the lower courts "glossed over" the deficiencies of the Indian legal system in dismissing the case and ignored the delays which "beset every litigant" in India. (Pet. Brief at 7). Yet, the district court's opinion filled 13 pages reviewing "the affidavits of experts on India's law and legal system, which described in detail its procedural and substantive aspects, and concluded that, despite some of the Indian system's disadvantages, it afforded an adequate alternative forum for the enforcement of plaintiffs' claims." (Pet. App. at 7a).

On appeal, the Second Circuit similarly rejected the Petitioners' contention, stating that the "finding of our district court, after exhaustive analysis of the evidence, that the Indian courts provide a reasonably adequate alternative forum cannot be labelled clearly erroneous or an abuse of discretion." (Pet. App. at 16a). Petitioners' reliance on the Government of India's initial opposition to Union Carbide's motion has been completely undercut by the Government's change of position on appeal and the fact that the litigation is being actively pursued by the Government in India.

II

Petitioners next contend that the district court applied the *Piper Aircraft Co. v. Reyno*, 454 U.S. 235 (1981) and *Gulf Oil Corporation v. Gilbert*, 330 U.S. 501 (1947) standards in such a manner as to "ignore the realities of modern litigation and technology." (Pet. Brief at 9). Once again, Petitioners improperly seek to review the factual determinations of the courts below.

Petitioners argue that "jet travel, photocopying technology, videotape, satellite rays, one day mail delivery have greatly reduced the significance of a chosen forum's distance from relevant evidence." (Pet. Brief at 11). However, they ignore the lower courts' concern that Union Carbide could not defend itself in the United States because of lack of access to the critical evidence which is located in India, including lack of compulsory process over Indian witnesses. As the court of appeals stated, "[t]he many witnesses and sources of proof are almost entirely located in India, where the accident occurred, and could not be compelled to appear for trial in the United States." (Pet. App. at 9a-10a).

The record unequivocally demonstrates that virtually all of the relevant witnesses, documents and evidence needed to determine the critical issues of liability and damages in this litigation are located in India. Without access to this evidence, Union Carbide would be denied the opportunity to defend itself. As the court of appeals further stated:

> Plaintiffs' contention that the most crucial and probative evidence is located in the United States is simply not in accord with the record or the district court's findings. Although basic design programs were prepared in the United States and some assistance furnished to UCIL at the outset of the 10-year period during which the Bhopal plant was constructed, the proof bearing on the issues to be tried is almost entirely located in India. This includes the principal witnesses and documents bearing on the development and construction of the plant, the detailed designs, the implementation of plans, the operation and regulation of the plant, its safety precautions, the facts with respect to the accident itself, and the deaths and injuries attributable to the accident. (Pet. App. at 17a).

Petitioners rely heavily on *Manu Int'l, S.A. v. Avon Products, Inc.*, 641 F.2d 62 (2d Cir. 1981), an opinion authored by Judge

Mansfield, to support the proposition that the *forum non conveniens* doctrine is outmoded in this age of jet travel. *Manu* preceded this Court's decision in *Piper*, and greater deference was accorded to the foreign plaintiff's choice of forum than is now appropriate. (*Id.* at 65). Moreover, the suggestion that the doctrine of *forum non conveniens* is "outmoded" clearly did not survive *Piper*, as is evidenced by Judge Mansfield authoring the opinion in this case.

Contrary to Petitioners' claims, *forum non conveniens* has been successfully invoked in many recent actions where foreign plaintiffs have sued American corporations in the United States on claims arising in a foreign country. Indeed, in case after case following *Piper*, allegations that injuries to foreign plaintiffs were proximately caused by the acts of an American parent corporation have not prevented dismissal on *forum non conveniens* grounds. These decisions have been uniformly upheld on appeal. Foreign plaintiffs who have sought review in this Court have also been turned down where the lower courts have, as here, considered the adequacy of the alternative forum, and balanced the relevant private and public interest factors. *De Melo v. Lederle Laboratories*, 801 F.2d 1058 (8th Cir. 1986); *Watson v. Merrell Dow Pharmaceuticals*, 769 F.2d 354 (6th Cir. 1985); *Sibaja v. Dow Chemical Co.*, 757 F.2d 1215 (11th Cir.), *cert. denied*, – U.S. –, 106 S. Ct. 347, 54 U.S.L.W. 3309 (1985); *Pain v. United Technologies Corp.*, 637 F.2d 775 (D.C. Cir. 1980), *cert. denied*, 454 U.S. 1128 (1981); *Fraizer v. St. Jude Medical, Inc.*, 609 F. Supp. 1129 (D. Minn. 1985); *Rubenstein v. Piper Aircraft Corp.*, 587 F. Supp. 460 (S.D. Fla. 1984); *Nai-Chao v. Boeing Co.*, 555 F. Supp. 9 (N.D. Cal. 1982), *aff'd sub nom., Cheng v. Boeing Co.*, 708 F.2d 1406 (9th Cir.), *cert. denied*, 464 U.S. 1017 (1983); *In re Richardson-Merrell, Inc.*, 545 F. Supp. 1130 (S.D. Ohio 1982), *modified sub nom., Dowling v. Richardson-Merrell, Inc.*, 727 F.2d 608 (6th Cir. 1984); *In re Disaster at Riyadh Airport, Saudi Arabia, on August 19, 1980*, 540 F. Supp. 1141 (D.D.C. 1982); *Abiaad v. General Motors Corp.*, 538 F. Supp. 537 (E.D. Pa.), *aff'd per curiam*, 696 F.2d 980 (3d Cir. 1982); *Harrison v. Wyeth Laboratories, Etc.*, 510 F. Supp. 1 (E.D. Pa. 1980), *aff'd per curiam*, 676

F.2d 685 (3d Cir. 1982); *Dahl v. United Technologies Corp.*, 472 F. Supp. 696 (D. Del. 1979), *aff'd*, 632 F.2d 1027 (3d Cir. 1980).

The courts below further found that the overwhelming weight of both public and private interest factors mandated dismissal of these actions in favor of the Indian forum. The decisions below followed well-established case law most recently affirmed by this Court in *Piper*, and, in light of the facts of this case, dismissal was the only correct result.

III

In its cross-petition, the Union of India also fails to demonstrate why this Court should exercise its discretion and grant a review on writ of certiorari. The Union of India claims that a key issue this Court should address is "whether a court can impose conditions upon a plaintiff whose case is dismissed on the basis of *forum non conveniens*." (Cross-Pet. Brief at 8). Yet, it is clear that the court of appeals did not impose any condition on the plaintiffs in this case. On the contrary, the court simply deleted a manifestly unfair condition the district court had imposed on Union Carbide.

The Union of India distorts the record in stating that the Second Circuit's decision "stands as an invitation to all defendants in transnational litigation to both oppose the plaintiff's choice of a U.S. forum, and at the same time favorably modify the rules of procedure applicable to it in the foreign forum." (Cross-Pet. Brief at 10). Neither Union Carbide nor the court of appeals opposed the application of Indian discovery rules in India nor did they seek to export U.S. discovery rules to India. Union Carbide only urged that whatever the rules, they should be the same for both sides, and that is all the court of appeals here decided.

Recognizing the inherent unfairness of the district court's one-sided discovery condition, the Second Circuit simply deleted that condition. It nowhere "extended the discovery condition

to plaintiff" as the Union of India contends or "force[d]" the parties to consent to new procedural rules in the Indian forum. (*See* Cross-Pet. Brief at i, 8). Rather, the district court had unfairly, as it conceded, sought to impose U.S. discovery rules on one party in the Indian courts and the court of appeals correctly and fairly left it to the parties to decide whether they would engage in reciprocal discovery under the Federal Rules, subject to such approval as might be required of the Indian court. In the absence of such a "court-sanctioned agreement", the court held that the parties should both proceed under the applicable Indian discovery rules, concluding that "basic justice dictate[d] that both sides be treated equally, with each having equal access to the evidence in the possession or under the control of the other." (Pet. App. at 23a).

The court of appeals emphasized that such a rule was especially compelling in this case where the Union of India has the inherent advantages of a sovereign government acting within its domain and was so heavily involved in, and so closely regulated, the design, construction and operation of the Bhopal plant. (Pet. App. at 13a). In sharp contrast, the court found that Union Carbide's "participation was limited and its involvement in plant operations terminated long before the accident." In such circumstances "fundamental fairness" required mutual and equal discovery rights between the parties.

The Union of India argues that a stipulation it proposed which was not accepted or ordered would have provided the parties with equal access to Federal Rules discovery. Under the proposed stipulation, the Federal Rules would have applied to discovery of information or individuals customarily located outside of India. As to discovery of information or individuals customarily located within India, the Federal Rules would only apply to the extent that the Union of India might agree to submit to similar discovery by Union Carbide. However, there are no Union Carbide documents or witnesses customarily located in India. Accordingly, since Union Carbide's documents and witnesses are customarily located outside of India, and, as found below, the "overwhelming majority of the witnesses and

evidence, both documentary and real", are located within India, the Federal Rules would still apply only to Union Carbide — the very unfairness which the district court explicitly recognized (Pet. App. at 38a) and which the court of appeals corrected.

The Second Circuit saw through this ruse at oral argument as the transcript shows:

> [w]here the finger may point toward political figures in India, or other figures over there, all as potential causative factors here, that would seem to be where Union Carbide's need for discovery is extremely high. And that's precisely where you say you [the Union of India] are not going to give [Federal Rules discovery] to them.

The Union of India next asserts that the Second Circuit erred by deleting the second condition imposed by the district court, which required Union Carbide to consent to satisfy any judgment rendered by an Indian court, provided the judgment comported with "minimal requirements of due process". According to the Union of India, Union Carbide consented to this condition without reservation or appeal. However, all three of the conditions of dismissal were taken up on appeal. As the court of appeals observed, plaintiffs appealed from the district court's order and Union Carbide cross-appealed "from each judgment and order appealed in whole or part by any plaintiff." Moreover, Union Carbide, as is acknowledged, raised the due process issue at oral argument before the Second Circuit. (Pet. App. at 14a-15a).

The Union of India's argument that Union Carbide is somehow entitled to less protection under laws governing the enforcement of foreign judgments in the United States because it sought dismissal on *forum non conveniens* grounds is nonsensical. There is no good reason why the judgment of a foreign court should be enforced differently or entitled to any more weight, merely because the suit was first brought in an inappropriate forum and dismissed. If, as the Union of India concedes, dismissal of this suit was mandated because trial in India

"will best serve the convenience of the parties" and, most importantly, "the ends of justice", (Cross-Pet. Brief at 8 (citing *Koster v. (American) Lumbermens Mut. Casualty Co.*, 330 U.S. 518, 527 (1947)), it can hardly argue now that the party who sought dismissal on those very grounds should be penalized and its rights curtailed. The simple matter is that the court of appeals, as did the district court, wanted to make it plain that the Union of India had to provide due process in its courts if it expected to enforce a judgment in our courts — and the court of appeals eliminated any ambiguity on the subject.

A party should not be penalized for seeking what "the ends of justice" require. Moreover, the Union of India should not be permitted to argue that "minimal" due process means something less than due process in later attempting to justify to a U.S. court steps taken in India which would otherwise be deemed offensive and unfair. The court of appeals plainly reached the correct result in concluding that Union Carbide is entitled to the same rights possessed by any party when a foreign judgment is sought to be enforced against it in a United States court.

* * *

The only other issue raised in the petitions concerns the motion below for a fairness hearing by the court-appointed attorneys for the individual plaintiffs. Although Union Carbide maintains that if these cases must be litigated, they must be litigated in India, continued litigation is obviously not the most desirable means of resolving the claims arising out of the Bhopal tragedy. A fair and equitable settlement should be far preferable to all concerned. For that reason Union Carbide has always supported the tentative settlement reached with the attorneys for the plaintiffs and would welcome a direction from this Court for further proceedings below to effectuate the settlement — a settlement which it believes will be seen as generous in light of the real number and kind of legitimate claims, free of duplication and exaggeration, and of the enormously beneficial impact on the lives of the victims in Bhopal of $300,000,000 to $350,000,000.

CONCLUSION

The petition and cross-petition for writs of certiorari should be denied.

Respectfully submitted,

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APPENDIX

APPENDIX

Rule 28.1 Listing

Union Carbide Corporation has no parent company. Union Carbide Corporation (or corporations in which it has an ownership interest) has less than 100% ownership interests in the following independently managed and operated companies:

	Place of Incorporation	*% of Ownership*
ACM Services, Inc.	Texas	33.33%
P.T. Agrocarb Indonesia	Indonesia	60%
Agromore, Ltd.	India	25%
Argon, S.A.	Spain	50%
Andaluza De Gases S.A.	Spain	50%
Arlasa S.A.	Spain	26.98%
Carburo del Cinca S.A.	Spain	10%
Companhia Nacional de Oxigeno, Lda.	Spain	50%
Compania Navarra de Oxigeno S.A.	Spain	69.5%
Hispano Sueca de Soldadura S.A.	Spain	10%
Oxigeno Del Norte, S.A.	Spain	50%
Oxigeno Del Sur S.A.	Spain	33.33%
Oxigenus S.A.	Spain	10%
Oximesa	Spain	10%
Beralt Tin and Wolfram Limited	U.K.	25%
Carbide Hashim Industrial Gases Company	Saudi Arabia	25%
Carbographite Limited	Rep. So. Africa	50%
Clark Chemical Industry Co., Ltd.	Japan	2.5%
Elektrode Maatskappy van Suid-Afrika (Eiendoma) Beperk	Rep. So. Africa	50%

	Place of Incorporation	*% of Ownership*
Greenwich Oil Corporation	Delaware	35%
Grupo Condumex, S.A. de C.V.	Mexico	3.5%
Indugas N.V. (by Union Carbide Benelux N.V.)	Belgium	50%
Rhee Beheer B.V. (by Indugas-Nederland B.V.)	Netherlands	50%
Iwatani Industrial Gases Corporation	Japan	5%
Miami Welding Supply, Inc.	Florida	50%
Nippon Unicar Company Limited	Japan	50%
Ace Polymer Co., Ltd.	Japan	20%
Hokuetsu Kasei (Chemical) Co., Ltd.	Japan	20%
Hokuetsu Kasei Shoji (Trading) Co., Ltd.	Japan	15.8%
Osaka Hokuetsu Kasei Co., Ltd.	Japan	15%
Kyowa Shokai Co., Ltd.	Japan	12.6%
Sankyo Plastics Co., Ltd.	Japan	55%
SIAD-Societa Italiana Acetilene e Derivate S.p.A. (by Union Carbide Italia S.p.A.)	Italy	48.3%
Tenngasco Gas Gathering Company	Delaware	13.78%
Unigas S.p.A. (by Union Carbide Italia S.p.A.)	Italy	50.1%
Rivoira S.p.A. (by IGI-Italiana Gas Industriali S.p.A.)	Italy	78.33%
Union Carbide Argentina S.A.I.C.S.	Argentina	11.0125%
Union Carbide Australia & New Zealand Limited	Australia	60.02%
Union Carbide Canada Limited	Canada	74.71%
B-C Oxygene Ltee.	Quebec	50%

	Place of Incorporation	*% of Ownership*
Borstad Welding Supplies Ltd.	Canada	50%
Brunswick Oxygen & Welding Supply Co. Ltd.	New Brunswick	45%
Canadian Welding Gases Limited	Ontario	80%
Commercial Alcohols Limited	Canada	50%
Consumers Welders Supplies Inc.	Alberta	87.5%
Medigas Eastern Ontario Limited	Ontario	50%
Medigas Eastern (by Tri-Valley Welding Products Inc.)	Canada	20%
Medigas Pacific Limited	British Columbia	50%
Medigas (Quebec) Limited	Quebec	45%
North Shore Oxygen (1969) Inc.	Quebec	80%
Petromont Inc.	Quebec	50%
Petromont and Company Limited	Canada	50%
Petrosar Limited	Ontario	15.17%
Rioux Oxygen Inc.	Quebec	50%
Saguenay Oxygene (1968) Ltee.	Quebec	51%
Shawinigan Pipeline Limited	Canada	50%
Welders Supply Company	Ontario	50%
Wetmore Welding Supplies Limited	Ontario	50%
Union Carbide India Limited	India	50.9%
Nepal Battery Company Limited	India	77.4%
Union Carbide Mexicana, S.A. de C.V.	Mexico	46.6%
Union Carbide Pakistan Limited	Pakistan	60%

	Place of Incorporation	*% of Ownership*
Union Gas Company Limited	Rep. of So. Korea	86.15%
Union Polymers Sdn. Bhd.	Malaysia	60%
Union Showa K.K.	Japan	50%
United States Welding, Inc.	Colorado	50%
S.A. White Martins Nordeste	Brazil	50.14%
Empresa Brasileira de Reflorestamento e Agro-Pecuaria Ltdá.	Brazil	90%
Empresa Brasileira de Cilindros Ltda.	Brazil	90%